

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE**

	)	
In re: Christopher and Sandra Donigian,	)	Chapter 13
	)	Case No. 08-12455
Debtors	)	
	)	
Lawrence Sumski, Chapter 13 Trustee,	)	Adv. Pro. No. 10-1098
	)	
Plaintiff	)	
	)	
v.	)	
	)	
Jacob Donigian and	)	
Donigian Properties, LLC	)	
	)	
Defendants	)	
	)	

**ORDER DENYING MOTION TO ALTER OR AMEND JUDGMENT**

The Chapter 13 Trustee moves to alter or amend the order denying the Trustee summary judgment on Counts I, IV and V of his complaint. Hearing was held on that motion on August 23, 2011. The motion to alter or amend the order denying summary judgment as to Counts I and V is denied for the reasons set forth on the record at the hearing. I withheld ruling on the motion as it relates to Count IV pending my review of the transcript of the summary judgment hearing because the Trustee asserts that there was an admission at that hearing as to the Debtors' insolvency at the time of the transfer.

The transcript shows that the Trustee stated: "we know based upon the schedules and statement of financial affairs that the debtor filed that the debtor was insolvent." Counsel for the Defendants conceded there was no dispute regarding insolvency. Had the Debtors' schedules and statement of financial affairs been part of the record on summary judgment, which they were not, they might have established that the Debtors were insolvent at the time of the bankruptcy

filing. I understand the colloquy at the summary judgment hearing to be nothing more than an acknowledgment by the Defendants that the Debtors were insolvent on the filing date. As noted in the order denying summary judgment, that concession does not establish that the Debtors were insolvent at the time of the transfer at issue a month earlier. Reconsideration of the denial of summary judgment on Count IV is not warranted. The Trustee's motion is DENIED.

DATED: August 25, 2011

/s/ Louis H. Kornreich  
Louis H. Kornreich, U.S. Bankruptcy Judge  
Sitting by designation